

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PAUL DAVID JOHNSON,  
Plaintiff,  
v.  
SANCHEZ, et al.,  
Defendants.

Case No. [22-cv-07858-JSW](#)

**ORDER RESPONDING TO  
REFERRAL FROM COURT OF  
APPEALS**

The case was dismissed for failure to state a cognizable claim for relief, and Plaintiff's motion for reconsideration was denied. Plaintiff appealed. The Ninth Circuit has referred the case to this Court to determine whether the appeal is taken in good faith or IFP should be revoked on appeal. 28 U.S.C. § 1915(a)(3). This Court finds that Plaintiff has a good faith dispute with the Court's reasoning in finding his claims not cognizable.

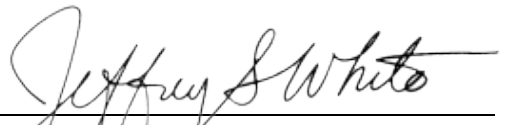
It has come to the Court's attention in Plaintiff's other cases that Plaintiff is subject to the "three strikes" rule of the PLRA, 28 U.S.C. § 1915(g), *see Johnson v. Spurgeon*, No. C 23-0327 JSW (N.D. Cal.); *Johnson v. Rosalez*, No. C 22-4091 JSW (N.D. Cal.), which precludes Plaintiff from proceeding IFP on appeal absent a showing of imminent danger because Plaintiff has had three or more dismissals that qualify as "strikes." *See Johnson v. Davis*, Case No. 21-15093 (9th Cir., Sept. 17, 2021); *Johnson v. Agpoon*, Case No. 21-15606 (9th Cir., Sept. 16, 2021) (appeal dismissed as frivolous); *Johnson v. Agpoon*, Case No. 20-cv-06676-LHK (N.D. Cal., Mar. 9, 2021) (dismissed for failure to state a claim upon which relief may be granted); *Johnson v. Davis*, Case No. 20-cv-02851-LHK (N.D. Cal., Jan. 4, 2021) (dismissed for failure to state a claim upon which relief may be granted); *Johnson v. California Prison Industry Authority*, Case No. CIV S-11-0164 CKD P (E.D. Cal., Dec. 21, 2011) (dismissed for failure to file amended complaint after

1 dismissal for failure to state a upon which relief may be granted); *Johnson v. Sisto*, Case No. 08-  
2 cv-01962-RRC (E.D. Cal., July 26, 2010) (dismissed for failure to state a claim upon which relief  
3 may be granted). This Court does not determine whether or not Section 1915(g) bars Plaintiff  
4 from proceeding IFP on appeal in this case because, since the filing of the notice of appeal,  
5 jurisdiction over this case lies with the Court of Appeals.

6 **IT IS SO ORDERED.**

7 Dated: February 16, 2023

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JEFFREY S. WHITE  
United States District Judge